

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSHUA FLYNN, Individually and on Behalf)	Case No.: 1:19-cv-08209
of All Others Similarly Situated,)	
)	<u>CLASS ACTION</u>
Plaintiff,)	
)	Honorable Virginia M. Kendall
vs.)	
)	
EXELON CORPORATION, et al.,)	
)	
Defendants.)	
_____)	

JOINT MOTION FOR ENTRY OF A PROPOSED SCHEDULING ORDER

Lead Plaintiff Local 295 IBT Employer Group Pension Trust Fund (“Lead Plaintiff”) and Defendants Exelon Corporation, Commonwealth Edison Company, Christopher Crane, Joseph Dominguez, William Von Hoene, and Anne Pramaggiore (collectively, “Defendants,” and with Lead Plaintiff, “Parties”), by and through their undersigned counsel, submit this Joint Motion for Entry of a Proposed Scheduling Order, and in support thereof, state as follows:

1. On September 23, 2021, this Court granted the unopposed motion of the United States to intervene and stay discovery while the parties to this action and the government negotiated a proposed protective order concerning certain discovery materials. *See* ECF No. 130 (“Order”) (granting ECF No. 127). The Order stayed discovery in this action “for sixty days, or until a protective order is issued, whichever is earlier.” *Id.*, ¶2. The Order also struck all previously set deadlines and stated that, “[u]pon completion of the discovery stay, Lead Plaintiff and Defendants shall submit a joint proposed amended scheduling order, reflecting an extension of deadlines commensurate with the length of the stay.” *Id.*, ¶4.

2. On November 4, 2021, the United States submitted to the Court’s email a proposed amendment to the protective order (the “Confidentiality Order Amendment”), as contemplated by the Order. The Confidentiality Order Amendment would prohibit the Parties from requesting discovery into certain matters, including communications with the government, but contemplates continued discovery into other matters. *See* Confidentiality Order Amendment, ¶¶5-7. The Confidentiality Order Amendment expires on February 15, 2022, and the government may move for an extension. *Id.*, ¶8.

3. Upon the entry of the Confidentiality Order Amendment, the discovery stay will end under the terms of the Order.

4. Pursuant to ¶4 of the Order, Lead Plaintiff and Defendants jointly propose that the Court set a February 15, 2022 deadline for the substantial completion of the document discovery

permitted under the Confidentiality Order Amendment. This deadline aligns with the expiration of the Confidentiality Order Amendment and allows the Parties to conduct certain party and non-party discovery that would not violate the Confidentiality Order Amendment.

5. Lead Plaintiff and Defendants further request that no other case deadlines be set at this time. The Confidentiality Order Amendment would preclude the completion of all document discovery (and written discovery such as interrogatories into certain subject matters), which will be necessary for continued proceedings, including deposition discovery and the completion of fact discovery. *See* ECF No. 128, ¶¶3, 6(b). Moreover, the limitations on the scope of permissible production under the Confidentiality Order Amendment may present additional obstacles and issues in the completion of the Parties' collection, review, and production of documents.

6. By February 15, 2022, the Parties will have a better understanding of (1) the document discovery that remains (and any issues that arose while operating under the Confidentiality Order Amendment), and (2) whether the government will seek to extend the stay of certain discovery. At that time, the Parties intend to either propose a schedule for the remaining dates or move for any other relief that any or all of the Parties believe necessary to continue and complete discovery.

WHEREFORE, Lead Plaintiff and Defendants respectfully request that this Court set a February 15, 2022 deadline for substantial completion of the document discovery permitted under the Confidentiality Order Amendment, with all other case deadlines to be set on or after February 15, 2022.

DATED: November 9, 2021

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP

JAMES E. BARZ (IL Bar # 6255605)
BRIAN E. COCHRAN (IL Bar # 6329016)
FRANK A. RICHTER (IL Bar # 6310011)
CAMERAN GILLIAM (IL Bar # 6332723)

s/ Frank A. Richter

FRANK A. RICHTER

200 South Wacker Drive, 31st Floor
Chicago, IL 60606
Telephone: 312/674-4674
312/674-4676 (fax)
jbarz@rgrdlaw.com
bcochrane@rgrdlaw.com
frichter@rgrdlaw.com
cgilliam@rgrdlaw.com

Lead Counsel for Lead Plaintiff

DATED: November 9, 2021

RILEY SAFER HOLMES & CANCELILA LLP
MATTHEW C. CROWL (IL Bar # 6201018)
BRIAN O. WATSON (IL Bar # 6304248)
AMY C. ANDREWS (IL Bar # 6226692)

s/ Matthew C. Crowl

MATTHEW C. CROWL

70 West Madison Street, Suite 2900
Chicago, IL 60602
Telephone: 312/471-8700
312/471-8701 (fax)
mcrowl@rshc-law.com
bwatson@rshc-law.com
aandrews@rshc-law.com

DAVIS POLK & WARDWELL LLP
JAMES P. ROUHANDEH (#2211837)
EDMUND POLUBINSKI III (#3022332)
MARI BYRNE (#5074893)
450 Lexington Avenue
New York, NY 10017
Telephone: 212/450-4000
212/701-5835 (fax)
rouhandeh@davispolk.com
edmund.polubinski@davispolk.com
mari.byrne@davispolk.com

Attorneys for Defendants Exelon Corporation,
Commonwealth Edison Company, Christopher
M. Crane, William A. Von Hoene, Jr., and Joseph
Dominguez

DATED: November 9, 2021

SIDLEY AUSTIN LLP
SCOTT R. LASSAR
DAVID A. GORDON
JENNIFER M. WHEELER

s/ David A. Gordon
DAVID A. GORDON

One South Dearborn
Chicago, IL 60603
Telephone: 312/853-7000
312/853-7036 (fax)
slassar@sidley.com
dgordon@sidley.com
jwheeler@sidley.com

Attorneys for Defendant Anne Pramaggiore

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on November 9, 2021, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Frank A. Richter

FRANK A. RICHTER

ROBBINS GELLER RUDMAN

& DOWD LLP

200 South Wacker Drive, 31st Floor

Chicago, IL 60606

Telephone: 312/674-4674

312/674-4676 (fax)

E-mail: frichter@rgrdlaw.com

Mailing Information for a Case 1:19-cv-08209 Flynn v. Exelon Corporation et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Amy C. Andrews**
aandrews@rshc-law.com,docketdept@rshc-law.com
- **James E Barz**
jbarz@rgrdlaw.com,cbarrett@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Mari Byrne**
mari.byrne@davispolk.com,ecf.ct.papers@davispolk.com,daniel.magy@davispolk.com
- **Brian E. Cochran**
BCochran@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Matthew Charles Crowl**
mcrowl@rshc-law.com,docketdept@rshc-law.com,ssluch@rshc-law.com
- **Carol V Gilden**
cgilden@cohenmilstein.com,lhoeksema@cohenmilstein.com,efilings@cohenmilstein.com
- **Cameran Gilliam**
cgilliam@rgrdlaw.com
- **David Andrew Gordon**
dgordon@sidley.com,efilingnotice@sidley.com,david-gordon-4155@ecf.pacerpro.com,jwheeler@Sidley.com
- **J. Alexander Hood , II**
ahood@pomlaw.com,ashmatkova@pomlaw.com,abarbosa@pomlaw.com
- **Laurie Largent**
LLargent@rgrdlaw.com
- **Scott R. Lassar**
slassar@sidley.com,efilingnotice@sidley.com,scott-lassar-4695@ecf.pacerpro.com
- **Jeremy Alan Lieberman**
jalieberman@pomlaw.com,tcrockett@pomlaw.com,disaacson@pomlaw.com,ashmatkova@pomlaw.com,abarbosa@pomlaw.com
- **Louis Carey Ludwig**
lludwig@pomlaw.com,kgutierrez@labaton.com
- **Carl V. Malmstrom**
malmstrom@whafh.com
- **Francis P. Mcconville**
fmccconville@labaton.com,lpina@labaton.com,9849246420@filings.docketbird.com,electroniccasefiling@labaton.com
- **Danielle S. Myers**
dmyers@rgrdlaw.com,dmyers@ecf.courtdrive.com,e_file_sd@rgrdlaw.com
- **Edmund Polubinski , III**
Edmund.polubinski@davispolk.com,ecf.ct.papers@davispolk.com,james.rouhandeh@davispolk.com
- **Frank Anthony Richter**
frichter@rgrdlaw.com,E_File_SD@rgrdlaw.com
- **James P Rouhandeh**
rouhandeh@davispolk.com,ecf.ct.papers@davispolk.com
- **Jared Matthew Schneider**
jschneider@pomlaw.com

- **Julia Kathryn Schwartz**
julia.schwartz@usdoj.gov
- **United States of America**
julia.schwartz@usdoj.gov
- **Brian O'Connor Watson**
bwatson@rshc-law.com,docketdept@rshc-law.com
- **Jennifer Martin Wheeler**
jwheeler@sidley.com,jennifer-4277@ecf.pacerpro.com,efilingnotice@sidley.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Jeanne M. Jones

,

Joseph Nigro

,